

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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LEE ALEXANDER BROWN,

Plaintiff,

v.

Case No. 09-C-39

DEPARTMENT OF CORRECTIONS et al.,

Defendants.

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**ORDER**

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Chapter 980 inmate Lee Alexander Brown has filed another action seeking damages for what he alleges is his continued unconstitutional custody by the State of Wisconsin. In a previous action, No. 08-C-681, this Court dismissed his complaint because it was an improper civil action to obtain damages for custody when he had not successfully petitioned for habeas relief. The present complaint seeks similar relief. He asserts that his mandatory release date was illegally ignored by the State when its officials committed him under Chapter 980. Notwithstanding the fact that Chapter 980 confinement has been upheld against constitutional challenges, the relief plaintiff seeks cannot be granted by this court. As noted in the dismissal of his previous action, he cannot get damages for an illegal incarceration until and unless he first obtains habeas relief, i.e., release from custody or a new hearing or trial. Initially, the proper process for that is through state court channels rather than federal district court. Accordingly, the complaint is **DISMISSED**.

I note that this is Plaintiff's fifth dismissal in less than two years for failure to state a claim. Plaintiff is warned that any future unmeritorious filings may result in issuance of a sanction,

including a *Mack* order that directs the clerk's office to return any filings to the Plaintiff unfiled for a period of at least two years. *See Support Systems Int'l, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995).

**SO ORDERED** this 26th day of January, 2009.

s/ William C. Griesbach \_\_\_\_\_

William C. Griesbach

United States District Judge